

1                                   **ARIZONA STATE BOARD OF PHARMACY**  
2                                   **1700 W. Washington Street, Room 250**  
3                                   **Phoenix, Arizona 85007**  
4                                   **(602) 771-2727**

5 In the Matter of:

6 **CECILIO NERIZ**

7 Holder of Pharmacy Technician License

8 No. T014756 in the State of Arizona  
9

**FINDINGS OF FACT, CONCLUSIONS**  
**of LAW and BOARD ORDER**  
**No. 10-0012-PHR**

10           On November 19, 2009 the Arizona State Board of Pharmacy ("Board") considered the  
11 State's Motion to Deem Allegations Admitted at the Board of Pharmacy Offices, 1700 W.  
12 Washington Street, Room 312, in Phoenix, Arizona. Elizabeth Campbell, Assistant Attorney  
13 General, appeared on behalf of the State. Respondent did not appear.  
14

15           On November 19, 2009 the Board granted the State's Motion to Deem Allegations  
16 Admitted. Based upon A.R.S. § 32-1927.01(O) and the Complaint and Notice of Hearing No.  
17 10-0012-PHR filed in this matter, the Board issues the following Findings of Fact and  
18 Conclusions of Law, and Order revoking Respondent's license.  
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21                                   **FINDINGS OF FACT**  
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23           1.     During all times relevant to this Complaint, Respondent was employed as a  
24 pharmacy technician at Wal-Mart Pharmacy #10-5257.

25           2.     In May 2009, Wal-Mart personnel interviewed Respondent concerning  
26 fraudulent refunds. Respondent admitted diverting money from Wal-Mart by ringing up  
27 fraudulent refunds in the Pharmacy, crediting back part of the sale as cash, and placing the  
28  
29

1 remaining credit on a gift card that he kept for himself. Respondent admitted to starting this  
2 practice in December 2008 and to diverting a total amount of approximately \$8,000.  
3

#### 4 CONCLUSIONS of LAW

5  
6 1. The Board possesses jurisdiction over the subject matter and over Respondent  
7 pursuant to A.R.S. § 32-1901 *et seq.*

8 2. Pursuant to A.R.S. § 32-1927.01(A)(1), the Board may discipline a pharmacy  
9 technician who has engaged in unprofessional conduct.

10 3. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
11 13-1802(A)(1) (A person commits theft if, without lawful authority, the person knowingly  
12 controls another person's property with the intent to deprive that other person of such  
13 property).

14 4. The conduct and circumstances described above constitutes unprofessional  
15 conduct pursuant to A.R.S. § 32-1901.01(C)(6) (Committing a felony, whether or not  
16 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug- related  
17 offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest  
18 is conclusive evidence of the commission).  
19

#### 20 ORDER

21  
22 In view of the above Findings of Fact and Conclusions of Law, the Board issues the  
23 following Order:  
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25 Pharmacy Technician license number T014756 issued to Respondent is **REVOKED**.  
26 A.R.S. § 32-1927.01(B)(1).  
27  
28  
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1                                   **RIGHT TO PETITION FOR REHEARING OR REVIEW**

2           Respondent is hereby notified of the right to petition for a rehearing or review by filing  
3  
4 a petition with the Board's Executive Director within thirty (30) days after service of this  
5 Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for granting  
6 a rehearing. A.C.C. R4-23-128. Service of this order is effective five (5) days after date of  
7 mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five  
8 (35) days after it is mailed to Respondent.  
9

10           Respondent is further notified that the filing of a motion for rehearing is required to  
11 preserve any rights of appeal to the Superior Court.  
12

13  
14 DATED this 28<sup>th</sup> day of December, 2009.  
15

16                                   **ARIZONA STATE BOARD OF PHARMACY**

17  
18 SEAL

19  
20 

21                                   Hal Wand, R.Ph.  
22                                   Executive Director  
23  
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28  
29

JANUARY 2010 TNP  
COPIES mailed this 4 day of December, 2009

By Certified Mail Receipt No. 7008 0150 0003 1434 9746

to:

Cecilio Neriz  
2271 E. Rawhide St.  
Gilbert, Arizona 85296  
Respondent

JANUARY 2010 TNP  
COPIES of the foregoing mailed this 4 day of December, 2009, to:

Elizabeth Campbell, Assistant Attorney General

and

MaryJo Foster, Assistant Attorney General, Solicitors Office

Both located at  
1275 W. Washington  
Phoenix, AZ 85007